

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3885 of 1984

Date of decision: 26-7-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

L.R. PATEL

Appearance:

Mr. S.M. Mazgaonkar for MR SN SHELAT for Petitioner
None present for the respondents.

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/07/96

Gujarat State Road Transport Corporation has filed this special civil application challenging the award of the Labour Court, Valsad, passed on 31st January, 1984 in Reference (LCN) No.633 of 1983. The respondent workman, a conductor, working in the Corporation, was charge sheeted for the misconduct that on checking the bus in which he was discharging his duties as conductor on 11th January 1977 it was found that he had not issued ticket to one passenger travelling between Sutharwada to Dharampur and to another passenger travelling from Kapradapi to Kakadkuva; and that there were irregularities in issue of tickets and cash was found less. After holding departmental inquiry the Corporation ordered him to be dismissed from service.

2. The respondent workman raised industrial dispute. The dispute was referred to the Labour Court by the State Government for adjudication. Under the impugned award the Labour Court directed the petitioner to reinstate the workman in service. However, the Labour Court dismissed the reference with regard to backwages. The Labour Court has only gone into the question of quantum of punishment to be given to the workman. The punishment of dismissal from service was considered to be too harsh in comparison to the charge proved against the workman. The reason which has been given by the Labour Court to take a lenient view in the matter of giving penalty may not be sound, nevertheless the same cannot be said to be irrelevant or extraneous. It is not a case where no penalty has been given by the Labour Court to the workman. The Labour Court has not awarded backwages to the workman for the period of dismissal, and observed that denial of backwages for six years itself is sufficient punishment. The counsel for the petitioner contended that when the petitioner was held guilty of the misconduct then some punishment should have been given to the workman as denial of backwages is not a punishment.

3. I find some merit in the contention of the learned counsel for the petitioner that the respondent workman should have been given some other punishment. But taking into consideration the fact that the workman has been taken back in service in the year 1984 as the award has not been stayed and, as conceded by the learned counsel for the petitioner, during this period nothing adverse has been reported against the workman, no interference with the award of the Labour Court is called for.

4. In the result this special civil application fails and the same is dismissed. Rule discharged. No order as to costs.

.....

csm